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EXAMINER	
YUEN, KAN	

ART UNIT	PAPER NUMBER
2416	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/721,951	CHEN ET AL.	
	Examiner	Art Unit	
	KAN YUEN	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-14,16-20,23-26,29,31,33-42* is/are rejected.

7)☒ Claim(s) *5,15,21,22,27,28,30 and 32* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Arguments

1. Applicant's arguments, see remark, filed on 8/12/2008, with respect to the rejection(s) of claim(s) 1-42 under 103 rejections have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ue et al. (Pat No.: 6487394).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 does not particularly point out whether it is a system claim or a method claim. Such claim structure is considered as hybrid claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 11, 23, 24, 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Ue et al. (Pat No.: 6487394).

In claim 1, Ue et al. disclosed the method of setting a data rate for a communication channel to be used for transmitting data to a remote receiver at a variable transmit power that is controlled upward and downward by the remote receiver as needed to achieve a desired received data quality at the remote receiver (Ue et al. column 6, lines 25-48). The base station controls the transmission power based on a transmission power control signal sent from the terminal, and if the quality of transmission from the base station to the terminal deteriorates, the terminal requests an increase of transmission power. If this request is judged to be excessive transmission power taking into account the amount of interference with others, the base station performs transmission rate switching control;

monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver (Ue et al. column 6, lines 25-48). The base station monitors the transmission power of itself. The base station controls the transmission power based on a transmission power control signal sent from the terminal; and

changing the data rate for the communication channel based on the transmit power information (Ue et al. column 6, lines 25-48). If this request is judged to be

excessive transmission power taking into account the amount of interference with others, the base station performs transmission rate switching control.

Regarding claim 2, Ue et al. disclosed the feature wherein setting a data rate for a communication channel to be used for transmitting data to a remote receiver at a variable transmit power comprises setting the data rate of a communication channel assigned to the remote receiver to a desired data rate (Ue et al. column 6, lines 25-48).

Regarding claim 11, Ue et al. disclosed the feature wherein monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver comprises monitoring power control commands sent from the remote receiver that are associated with controlling the transmit power of the communication channel (Ue et al. column 6, lines 25-48).

Regarding claim 23, Ue et al. disclosed transmitter circuits (Ue et al. fig. 1, 101, 102, and 109) to transmit radio signals on one or more forward link communication channels to mobile stations (Ue et al. fig. 2, column 3, lines 40-67) and

a forward link processing circuit (fig. 1, controller 106) to control the transmitter circuits (Ue et al. column 6, lines 25-48). The controller 106 adjusts the transmission rate and sends the signal to the transmission circuit;

the forward link processing circuit configured to set a data rate for a communication channel to be used for transmitting data to a mobile station at a variable transmit power that is controlled upward and downward by the mobile station as needed to achieve a desired received data quality at the mobile station (Ue et al. column 6, lines 25-48). The base station controls the transmission power based on a transmission

power control signal sent from the terminal, and if the quality of transmission from the base station to the terminal deteriorates, the terminal requests an increase of transmission power. If this request is judged to be excessive transmission power taking into account the amount of interference with others, the base station performs transmission rate switching control; and

the forward link processing circuit comprising a rate adaptor circuit configured (fig. 1, controller 106) to:

monitor transmit power information for the communication channel as an indication of current radio conditions at the mobile station (Ue et al. column 6, lines 25-48). The base station monitors the transmission power of itself. The base station controls the transmission power based on a transmission power control signal sent from the terminal; and

change the data rate for the communication channel based on the transmit power information (Ue et al. column 6, lines 25-48). If this request is judged to be excessive transmission power taking into account the amount of interference with others, the base station performs transmission rate switching control.

Regarding claim 24, Ue et al. disclosed the feature wherein the radio base station is configured to set the data rate for the communication channel to a desired value and the rate adaptor circuit is configured to adapt the data rate as needed based on monitoring the transmit power information (Ue et al. column 6, lines 25-48).

Regarding claim 36, Ue et al. disclosed the feature wherein the rate adaptor circuit is configured to monitor transmit power information for the communication

channel by monitoring power control commands sent from the mobile station that are associated with controlling the transmit power of the communication channel (Ue et al. column 6, lines 25-48).

Claim Rejections - 35 USC § 103

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 3, 6, 25, 29, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Matsuki (Pat No.: 6954434).

For claim 3, Ue et al. did not disclose the feature wherein monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver comprises generating one or more filtered values of

the transmit power and comparing the one or more filtered values against defined upper and lower power limits. Matsuki from the same or similar fields of endeavor teaches the feature wherein monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver comprises generating one or more filtered values of the transmit power and comparing the one or more filtered values against defined upper and lower power limits (Matsuki column 5, lines 39-55). The CPU 18 can also compares the predetermined steady transmission power value with increased transmission power value, when the detected forward link transmission power becomes higher than a predetermined transmission output. Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the feature as taught by Matsuki in the network of Ue et al. The motivation for using the feature being that it reduces the interference amount on a base station when the transmitting unit malfunction to decreases the power.

Regarding claim 6, Matsuki disclosed the feature wherein monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver comprises generating one or more filtered values of the transmit power and comparing the one or more filtered values against a first threshold for determining whether to initiate a rate decrease, and against a second threshold for determining whether to initiate a rate increase (Matsuki column 5, lines 39-55).

Regarding claim 25, Matsuki disclosed the feature wherein the rate adaptor circuit comprises one or more filter circuits to generate one or more filtered values

related to transmit power for the communication channel as the transmit power information; and wherein the rate adaptor circuit is configured to monitor the transmit power information for the communication channel by comparing the one or more filtered values against one or more rate change thresholds (Matsuki column 5, lines 39-55).

Regarding claim 29, Ue et al. disclosed the feature wherein the rate adaptor circuit is configured to change the data rate for the communication channel based on the transmit power information by initiating a downward rate change if one of the one or more filtered values approaches a rate decrease threshold, and initiating an upward rate change if one of the one or more filtered values approaches a rate increase threshold (Ue et al. column 6, lines 25-48).

Regarding claim 31, Matsuki disclosed the feature wherein the rate adaptor circuit comprises one or more filter circuits to generate one or more filtered values of transmit power for the communication channel, and wherein the rate adaptor circuit is configured to monitor the transmit power information for the communication channel by comparing the one or more filtered values against a rate increase threshold and a rate decrease threshold (Matsuki column 5, lines 39-55). The CPU 18 can also compares the predetermined steady transmission power value with increased transmission power value, when the detected forward link transmission power becomes higher than a predetermined transmission output.

8. Claims 4, 7, 12-14, 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Matsuki (Pat No.: 6954434) as applied to claim 3 above, and further in view of Kim et al. (Pub No.: 2002/0141349).

For claim 4, Ue et al. and Matsuki both did not disclose the feature wherein changing the data rate for the communication channel based on the transmit power information comprises initiating a downward rate change if one of the one or more filtered values approaches the upper power limit, and initiating an upward rate change if one of the one or more filtered values approaches the lower power limit. Kim et al. from the same or similar fields of endeavor teaches the feature wherein changing the data rate for the communication channel based on the transmit power information comprises initiating a downward rate change if one of the one or more filtered values approaches the upper power limit, and initiating an upward rate change if one of the one or more filtered values approaches the lower power limit (Kim et al. see paragraph 0045, lines 1-17). As shown, when the ROT gets too high, the rate will be decreased, and when ROT gets too low, the rate will be increased. Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the feature as taught by Kim et al. in the network of Ue et al. and Matsuki. The motivation for using the feature being that it provides reliability in the system.

Regarding claim 7, Kim et al. disclosed the feature wherein the second threshold comprises a threshold set relative to an upper power bound associated with a higher data rate, such that a change to that higher data rate is not initiated unless the comparison indicates that a desired power margin would exist if the data rate is

increased to the higher data rate (Kim et al. see fig. 3, Interference level detector box 32 and comparator 33, see paragraph 0046, lines 1-10); In the reference 32 estimate and detect the received signal power from the mobile station, and monitoring by compare the power with the threshold using comparator 33. Therefore we can interpreted that units 32 and 33 monitors the transmit power information of a current mobile condition.

Regarding claim 12, Kim et al. disclosed the feature of generating one or more filtered values of the power control commands and determining whether the one or more filtered values indicate predominantly up commands or indicate predominantly down commands (Kim et al. see paragraph 0045, lines 1-17). When the ROT gets too high (greater percentage), the rate will be decreased, and when ROT gets too low, the rate will be increased. The greater percentage of up commands can be interpreted as the rate is approaching to the high threshold level.

Regarding claim 13, Kim et al. disclosed the feature wherein changing the data rate for the communication channel based on the transmit power information comprises initiating a downward rate change if the one or more filtered values indicate predominantly up commands (Kim et al. see paragraph 0045, lines 1-17). As shown, when the ROT gets too high, the rate will be decreased, and when ROT gets too low, the rate will be increased. The greater percentage of up commands can be interpreted as the rate is approaching to the high threshold level.

Regarding claim 14, Kim et al. disclosed the feature wherein changing the data rate for the communication channel based on the transmit power information comprises initiating an upward rate change if the one or more filtered values indicate

predominantly down commands (Kim et al. see paragraph 0045, lines 1-17). As shown, when the ROT gets too high, the rate will be decreased, and when ROT gets too low, the rate will be increased. The greater percentage of up commands can be interpreted as the rate is approaching to the high threshold level.

Regarding claim 37, Kim et al. disclosed the feature wherein the rate adaptor circuit is configured to determine whether a greater percentage of the power control commands are up commands or are down commands (Kim et al. see paragraph 0045, lines 1-17). When the ROT gets too high (greater percentage), the rate will be decreased, and when ROT gets too low, the rate will be increased. The greater percentage of up commands can be interpreted as the rate is approaching to the high threshold level.

Regarding claim 38, Kim et al. disclosed the feature wherein the rate adaptor circuit is configured to initiate a downward rate change if the greater percentage of the power control commands are up commands, and to initiate an upward rate change if the greater percentage of the power control commands are down commands (Kim et al. see paragraph 0045, lines 1-17). As shown, when the ROT gets too high, the rate will be decreased, and when ROT gets too low, the rate will be increased. The greater percentage of up commands can be interpreted as the rate is approaching to the high threshold level.

Regarding claim 39, Kim et al. disclosed the feature wherein the rate adaptor circuit is configured to filter the power control commands according to a first filter time constant to determine whether to initiate a downward rate change, and is configured to

filter the power control commands according to a second, longer filter time constant to determine whether to initiate an upward rate change (Kim et al. see paragraph 0028, lines 1-12). As shown in the reference, the base station informing the mobile station to increase, decrease, or maintain the rate based on the requirement of application.

Regarding claim 40, Kim et al. disclosed the feature wherein the rate adaptor circuit is configured to initiate a downward rate change if the power control commands predominantly are up commands, and to initiate an upward rate change if the power control commands predominantly are down commands (Kim et al. see paragraph 0045, lines 1-17). As shown, when the ROT gets too high, the rate will be decreased, and when ROT gets too low, the rate will be increased. The greater percentage of up commands can be interpreted as the rate is approaching to the high threshold level.

9. Claims 8, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Filipovic (Pub No.: 2004/0202133).

For claim 8, Ue et al. did not disclose the feature wherein monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver comprises comparing an average transmit power used for transmission of data on the communication channel to upper and lower power limits set for the channel, wherein a high average power indicates relatively poor current radio conditions at the remote terminal and wherein a low average power indicates relatively good current radio conditions at the remote terminal. Filipovic from the same or similar

fields of endeavor teaches the feature wherein monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver comprises comparing an average transmit power used for transmission of data on the communication channel to upper and lower power limits set for the channel, wherein a high average power indicates relatively poor current radio conditions at the remote terminal and wherein a low average power indicates relatively good current radio conditions at the remote terminal (Filipovic paragraph 0054). As the interference increases (poor condition), high average power must utilized between endpoints to establish good communication. Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the feature as taught by Filipovic in the network of Ue et al. The motivation for using the feature being that it provides reliability in the system.

Regarding claim 33, Filipovic disclosed the feature wherein the rate adaptor circuit is configured to monitor the transmit power information for the communication channel by comparing an average transmit power used for transmission of data on the communication channel to upper and lower power limits set for the channel (Filipovic paragraph 0054).

10. Claims 9, 10, 34, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Cordier et al. (Pub No.: 2003/0099222).

For claims 9, 34 Ue et al. did not disclose the feature of updating the transmit power information according to a defined transmission frame timing associated with the communication channel. Cordier et al. from the same or similar fields of endeavor teaches the feature of updating the transmit power information according to a defined transmission frame timing associated with the communication channel (Cordier et al. see paragraph 0013, lines 1-10, and aragraph 0014, lines 1-5). As shown in the reference, the power level of the base station can be adjusted or updated each time it reaches desired communication level, which can be interpreted as frame timing. Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the feature as taught by Cordier et al. in the network of Ue et al. The motivation for using the feature being that it provides increased of transmission efficiency in the network.

Regarding claims 10, 35 Cordier et al. disclosed the feature wherein updating the transmit power information according to a defined transmission frame timing associated with the communication channel comprises updating the transmit power information on at least a per frame basis (Cordier et al. see paragraph 0013, lines 1-10, and paragraph 0014, lines 1-5). As shown in the reference, the power level of the base station can be adjusted or updated each time it reaches desired communication level, which can be interpreted as frame timing.

11. Claims 16, 18, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Chen et al. (Pub No.: 2001/0040880), and further in view of Cha et al. (Pub No.: 2004/0090934).

For claim 16, Ue et al. did not disclose the method wherein the network comprises a cdma2000 network and the communication channel comprises a forward link supplemental channel (F-SCH) at a radio base station in the network to be used for serving a particular mobile station, and wherein changing the data rate for the communication channel based on the transmit power information comprises sending a rate change request for the forward link supplemental channel from the radio base station to an associated base station controller. Chen et al. from the same or similar fields of endeavor teaches method wherein the network comprises a cdma2000 network and the communication channel comprises a forward link supplemental channel (F-SCH) (Chen et al. see paragraph 0040, lines 1-10) at a radio base station (Chen et al. fig. 1, 104a, 104b) in the network to be used for serving a particular mobile station. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the teaching as taught by Chen et al. in the network of Ue et al. The motivation for using the teaching being that it increases transmission speed in the network.

However Chen et al. did not disclose the feature wherein changing the data rate for the communication channel based on the transmit power information comprises sending a rate change request for the forward link supplemental channel from the radio base station to an associated base station controller.

Cha et al. from the same or similar fields of endeavor teaches the feature wherein changing the data rate for the communication channel based on the transmit power information comprises sending a rate change request for the forward link supplemental channel from the radio base station to an associated base station controller (Cha et al. paragraph 0018). The signal may be transmitted by the base station to the base station controller. This signal may correspond with a need for the base station controller to adjust the power allocated to the base station. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the teaching as taught by Cha et al. in the network of Ue et al. and Chen et al. The motivation for using the teaching being that it increases transmission speed in the network.

Regarding claim 18, Chen et al. disclosed the feature wherein monitoring transmit power information for the communication channel as an indication of current radio conditions at the remote receiver comprises maintaining one or more filtered values indicative of transmit power for the communication channel (Chen et al. see paragraph 0027, lines 1-15).

Claim 41 is rejected similar to claim 16.

12. Claims 17, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Chen et al. (Pub No.: 2001/0040880), and Cha et

al. (Pub No.: 2004/0090934) as applied to claim 16 above, and further in view of Chheda (Pub No.: 2002/0072384).

For claims 17, 42 Ue et al., Chen et al., and Cha et al. all did not disclose the feature of sending an extended supplemental channel assignment message from the base station controller for transmission to the remote receiver to inform the remote receiver of a change in a current data rate assignment of the forward link supplemental channel. Chheda from the same or similar field of endeavor teaches the feature of sending an extended supplemental channel assignment message from the base station controller for transmission to the remote receiver to inform the remote receiver of a change in a current data rate assignment of the forward link supplemental channel (Chheda paragraph 0044). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the teaching as taught by Chheda et al. in the network of Ue et al. Cha et al. and Chen et al. The motivation for using the teaching being that it increases reliability in the network.

13. Claims 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Chen et al. (Pub No.: 2001/0040880), as applied to claim 18 above, and further in view of Matsuki (Pat No.: 6954434).

For claim 19, Ue et al. and Chen et al. both did not disclose the feature wherein changing the data rate for the communication channel based on the transmit power information comprises comparing one or more filtered values to one or more rate

change threshold values to determine whether a rate change is warranted. Matsuki from the same or similar fields of endeavor teaches the feature wherein changing the data rate for the communication channel based on the transmit power information comprises comparing one or more filtered values to one or more rate change threshold values to determine whether a rate change is warranted (Matsuki column 5, lines 39-55). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the teaching as taught by Matsuki in the network of Ue et al. and Chen et al. The motivation for using the teaching being that it increases reliability in the network.

14. Claims 20, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ue et al. (Pat No.: 6487394) in view of Chen et al. (Pub No.: 2001/0040880) and Matsuki (Pat No.: 6954434), as applied to claim 19 above, and further in view of Lee et al. (Pat No.: 6690944).

For claim 20, Ue et al., Chen et al. and Matsuki all did not disclose the feature of resetting at least one of the one or more filtered values responsive to initiating a rate increase or a rate decrease. Lee et al. from the same or similar fields of endeavor teaches the feature of resetting at least one of the one or more filtered values responsive to initiating a rate increase or a rate decrease (Lee et al. column 9, lines 25-37). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the teaching as taught by Lee et al. in the network of Ue et

al., Chen et al. and Matsuki. The motivation for using the teaching being that it increases reliability in the network.

Regarding claim 26, Lee et al. disclosed the feature wherein the rate adaptor circuit is configured to reset at least one of the one or more filtered values responsive to initiating a rate increase or a rate decrease (Lee et al. column 9, lines 25-37).

Allowable Subject Matter

15. Claims 5, 15, 21, 22, 27, 28, 30 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Examiner's Note:

16. Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAN YUEN whose telephone number is (571)270-1413. The examiner can normally be reached on Monday-Friday 10:00a.m-3:00p.m EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky O. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2616

KY